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UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

NATIONAL URBAN LEAGUE, et al.,

Plaintiffs,

v.

WILBUR L. ROSS, JR., et al.,

Defendants.

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CASE NO. 5:20-cv-05799-LHK

**PLAINTIFFS' RESPONSE TO COURT
REQUEST DURING SEPTEMBER 22,
2020 HEARING REGARDING
HISTORICAL CENSUSES**

Date: TBD
Time: TBD
Place: Courtroom 8
Judge: Hon. Lucy H. Koh

Pursuant to the Court’s direction, Plaintiffs respectfully submit further details regarding the historical censuses for which statutory deadlines were missed. Specifically, in four separate 19th century censuses, the officials in charge—“assistants” charged with transmitting the count to “marshals” or “secretaries,” who in turn transmitted returns to the Secretary of State—failed to complete or transmit the count by statutory deadlines. In each of those instances, after one or more deadlines had passed without the enumeration having been completed, Congress ultimately extended *ex post* the applicable deadlines.

1. 1810 Census

By statute, assistants conducting the 1810 enumeration were required to transmit returns to marshals and secretaries by January 1, 1811. *See* Act of Apr. 12, 1810, ch. 23, § 1, 2 Stat. 570, 570 (1810) (Exhibit A). And the marshals and secretaries, in turn, were required to transmit returns to the Secretary of State by March 1, 1811. *See* Act of Mar. 26, 1810, ch. 17, § 3, 2 Stat. 564, 566 (1810) (Exhibit B).

The transmissions did not occur by the respective deadlines. Only on March 2, 1811—months after the first deadline had passed—did Congress act to extend each deadline, granting until June 3, 1811, for the assistants to transmit returns to marshals and secretaries, and granting until July 1, 1811, for marshals and secretaries to transmit returns to the Secretary of State. *See* Act of Mar. 2, 1811, ch. 34, 2 Stat. 658 (1811) (Exhibit C). This amounted to a four month extension for the ultimate transmission of returns to the Secretary of State.

2. 1820 Census

By statute, assistants conducting the 1820 enumeration were required to transmit returns to marshals by February 7, 1821, and marshals were required to transmit returns to the Secretary of State by April 1, 1821. *See* Act of Mar. 14, 1820, ch. 24, §§ 1, 3, 3 Stat. 548, 549-50 (1820) (Exhibit D). On March 3, 1821—after the first of those deadlines had been missed—Congress pushed back both deadlines to the exact same date, September 1, 1821. *See* Act of Mar. 3, 1821, ch. 49, 3 Stat. 643, 643 (1821) (Exhibit E). This amounted to a five month extension for the ultimate transmission of returns to the Secretary of State.

1 **3. 1830 Census**

2 By statute, assistants conducting the 1830 enumeration were required to transmit returns
3 to marshals by December 1, 1830, and marshals were required to transmit returns to the
4 Secretary of State by February 1, 1831. *See* Act of Mar. 23, 1830, ch. 40, §§ 1-3, 4 Stat. 383,
5 384-84 (1830) (Exhibit F). After both dates had been missed, on February 3, 1831 Congress
6 granted an extension of both those dates—to June 1, 1831, and August 1, 1831, respectively. *See*
7 Act of Feb. 3, 1831, ch. 17, § 1, 4 Stat. 439, 440 (1831) (Exhibit G).

8 **4. 1840 Census**

9 By statute, assistants conducting the 1840 enumeration were required to transmit returns
10 to marshals by October 1, 1840, and marshals were required to transmit returns to the Secretary
11 of State by December 1, 1840. *See* Act of Mar. 3, 1839, ch. 80, § 1-3, 5 Stat. 331, 333 (1839)
12 (Exhibit H). On January 14, 1841—more than three month after the first of those two deadlines
13 had passed—Congress extended both deadlines, to May 1, 1841, and June 1, 1841, respectively.
14 *See* Act of Jan. 14, 1841, ch. 3, §1, 5 Stat. 411, 411 (1841) (Exhibit I). On September 1, 1841—
15 several months after both of those amended deadlines had passed—Congress again extended the
16 deadlines, to December 1, 1841, and January 1, 1842, respectively. *See* Act of Sept. 1, 1841, ch.
17 15, §1, 5 Stat. 452, 452 (1841) (Exhibit J).

1 Dated: September 22, 2020

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ATTESTATION

I, Sadik Huseny, am the ECF user whose user ID and password authorized the filing of this document. Under Civil L.R. 5-1(i)(3), I attest that all signatories to this document have concurred in this filing.

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